THE HON'BLE SRI JUSTICE K.C.BHANU

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W.P.Nos.14661, 14695 of 2002 and
1260,1266, 1378, 1379, 1394,
1418,1419, 1439, 1440, 1640,

1645 and 1651 of 2005

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Date:05-08-2005

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Between:

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The Engineer-in-chief, (P.W.) Dept., cum Successor in interest

Of A.P.S.C.C. Ltd., Errummanzil, Hyderabad and others.

PETITIONERS

AND

M.Venkataiah, S/o Venkateswarlu and others

RESPONDENTS

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THE HON'BLE SRI JUSTICE K.C.BHANU

W.P.Nos.14661, 14695 of 2002 and 1260,1266, 1378, 1379, 1394, 1418,1419, 1439, 1440, 1640,

1645 and 1651 of 2005

COMMON ORDER:

Since common question of law is involved in all these writ petitions, they are being disposed of by a common order.

Challenging the orders dated 01-04-2002 in M.P.Nos.19 and 16 of 1998 and 37, 42, 5, 8, 7, 36, 10, 6, 45, 4, 9, and 11 of 1999 on the file of the Additional Industrial Tribunal-cum-Labour Court, Hyderabad, (for short the 'Tribunal') whereunder a direction was given to the petitioners herein to pay the back wages to the respondents-workmen, the present writ petitions are filed.

The A.P. State Construction Corporation Limited (hereinafter referred to as the 'Corporation') retrenched the services of 236 Casual and Nominal Muster Roll Workers in the year 1979. Eighty four of such Workmen, represented by their Union, questioned the said retrenchment in I.D.No.9 of 1984 before the Tribunal and the Tribunal, by its award dated 06-02-1985, directed reinstatement of the said 84 workmen with continuity of service along with all consequential benefits. One of the 84 workmen, namely Sri K.B.Ramulu, raised an individual dispute with regard to his

alleged retrenchment in I.D.No.73 of 1982 and the same was dealt with independently by the Tribunal and by its award dated 29-10-1984 directed the respondents therein for reinstatement of the petitioner with continuity of service and all attendant benefits including the back wages. Though the said K.B.Ramulu is a claimant in both the said industrial disputes, but that issue was not raised before the Tribunal. The Corporation, aggrieved by the two awards, filed independent writ petitions before this Court questioning the validity of the said awards. W.P.No.4632 of 1985 was filed against the award dated 06-02-1985 in I.D.No.9 of 1984 and the same was disposed of by the order dated 26-04-1988 directing the Government to reinstate the 84 workmen without back wages. Aggrieved by the same, the workmen therein filed W.A.No.1658 of 1988. In the meanwhile, against the award in I.D.No.73 of 1982, W.P.No.1547 of 1985 was filed by the Corporation and the same was dismissed by this Court by an order dated
04-11-1988. Challenging the same, the Corporation filed W.A.No.612 of 1989 and the same was also dismissed by this Court by the order dated 17-09-1991.

The order dated 17-09-1991 in W.A.No.612 of 1989 was brought to the notice of this Court, when the W.A.No.1658 of 1988 was taken up for hearing. Therefore, the later Writ Appeal No.1658 of 1988 was also disposed of by the order dated 30-01-1997, as it was covered by the judgment in W.A.No.612 of 1989, dated 17-09-1991. Thereafter, the respondents-workmen filed the said Miscellaneous Petitions before the Tribunal under Section 33 C (2) of the Industrial Disputes Act claiming back wages for 18 years. By the impugned orders, the Tribunal directed the petitioners herein to pay the back wages to the respondents-workmen.

The short point for consideration in these writ petitions is whether the respondents-workmen are entitled for the back wages?

The learned counsel appearing for the petitioners contended that W.P.No.4632 of 1985, filed by the Corporation, was disposed of by the order dated

26-04-1988, whereunder the back wages were denied and the said order was brought to the notice of this Court in other W.P.No.1547 of 1985, and therefore, the Tribunal committed an error in misreading the judgments. He further contended that the judgments cannot be read as statutes and since the appeal is also confirmed, the respondents-workmen are not entitled for the back wages.

On the other hand, the learned counsel appearing for the respondents contended that the respondents-workmen are entitled for full back wages as per the order in W.A.No.1658 of 1988, dated 30-01-1997 and when the W.P.No.1547 of 1985 was dismissed, the award passed by the Tribunal in I.D.No.73 of 1982, dated 29-10-1984 has become final and as per that award, the workmen are entitled for the full back wages. He further contended that the W.A.No.612 of 1989 filed against the order in W.P.No.1547 of 1985 is also confirmed and hence the workmen are entitled for the back wages.

The facts are not in dispute. Originally, 84 workmen, represented by their union, filed I.D.No.9 of 1984 before the Tribunal and the Tribunal by its award dated 06-02-1985 ordered for reinstatement of 84 workmen with continuity of service along with consequential benefits. One of the workmen also raised I.D.No.73 of 1982 before the Tribunal and the Tribunal by its award dated 29-10-1984 ordered for reinstatement of the workman K.B.Ramulu with continuity of service and all attendant benefits including back wages. Challenging the award dated 06-02-1985 in I.D.No.9 of 1984, W.P.No.4632 of 1985 was filed before this Court. This Court, after elaborate consideration of the matter, modified the award passed by the Tribunal denying the back wages. The relevant portion of the judgment reads as follows:

> "In my opinion, the facts and circumstances of the petitioner's case would not justify the award of back wages for any period to the 83 workmen, as the evidence led by the petitioner-corporation would show that the workmen adopted an evasive attitude rendering it difficult for the petitioner/corporation to pay the retrenchment compensation and notice

pay to all the 83 workmen on 1-8-79. As regards the Tribunal's Order for reinstatement, I am of the opinion that in the facts and circumstances of the case, a direction for reinstatement is not called for."

Challenging the order in W.P.No.4632 of 1985, W.A.No.1658 of 1998 was filed and the same was disposed of by the order dated 13-01-1997, which reads as follows:

"The learned counsel for the appellants submit that this writ appeal covered by a judgment of this Court in W.A.No.612/89 dt.17-9-1991. Accordingly this writ appeal is disposed of in terms of the said judgement. No costs."

W.A.No.612 of 1989 was filed against the order of the learned Single Judge in W.P.No.1547 of 1985 and the same was dismissed by the order dated 17-09-1999, the relevant portion of which reads as follows:

"So far as the merits of the case are concerned, the Tribunal found as of fact on the basis of evidence that the services of the workmen terminated while his juniors were continued in service. In such a case the Tribunal was quite justified in holding that the retrenchment was illegal and unjustified."

It was further held that the Corporation was no longer in existence in the eye of law as it was abolished in the year 1983 itself, and on that ground, the writ appeal was dismissed.

The order in W.P.No.1547 of 1985, dated 04-11-1988 of the learned single Judge leading to the filing of W.A.No.612 of 1989 reads as follows:

"In the light of a decision of this Court I do not find any ground warranting interference of this Court. The writ petition is accordingly dismissed. It is open to the petitioner to refer the case of the 2nd respondent for reappointment to the State government in the light of the instructions issued by the Supreme Court. The writ petition is accordingly ordered."

The words “in the light of a decision of this Court” in the above order indicate and mean that the order passed in W.P.No.4632 of 1985. W.P.No.4632 of 1985 is a comprehensive dispute raised by the Union, in respect of 84 workmen in I.D.No.9 of 1984, whereas W.P.No.1547 of 1985 is filed against the award in I.D.No.73 of 1982, which is raised by only one workman. So, the observations of the learned single Judge must be traceable to the order of the another learned single Judge in W.P.No.4632 of 1985.

But, the learned counsel appearing for the respondents contended that the words “in the light of a decision of this Court” may be referred to some other disputes which have come up for consideration before that learned single Judge on the date of disposal of the said writ petition. But, this Court is unable to accept the said contention, because if the order of the learned judge is referred to any other dispute, not connected with the I.Ds., the same should have been mentioned in the order itself.

The contention of the learned counsel for the respondents herein is that when the W.P.No.1547 of 1985 was disposed of in terms of W.P.No.4632 of 1985, there is no need for the Corporation to file an appeal in W.A.No.612 of 1989.
It may be a fact that when an order is passed in favour of the Corporation, there is no need to prefer an appeal.

But, the learned counsel appearing for the petitioner contended that since the learned single Judge ordered for dismissal of the writ petition at one stage, and at another stage it was stated that the writ petition was ordered accordingly and therefore, because of this conflict, the Corporation filed the appeal.

The explanation offered by the petitioner is more convincing, because of the two contradictory orders with regard to the disposal of the writ petition; one is with

regard to the dismissal and another is with regard to the ordering of the writ petition.

The observations made in the reasoning of the judgment should be read in the context in which such observation was made. For that proposition, he relied upon a decision reported in **STATE OF GUJARAT v. AKHIL GUJARAT PRAVASI v. S. MAHAMANDAL ,** wherein the Apex Court held that:

> "Any observation made during course of reasoning in judgment should not be read divorced from the context in which they were used."

To the same effect, it is pertinent to refer to a decision reported in **CCE v. ALNOORI TOBACCO PRODUCTS** , wherein it was held:

> "Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclids theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated."

To the same effect, it is also pertinent to refer to a decision reported in **BHARAT PETROLEUM CORPORATION LTD. v. N.R.VAIRAMANI** , wherein it was held:

> "Judgments of Courts are not to be considered as statutes. To interpret words, phrases and provisions of a statute, it my become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments."

Therefore, the observation of the learned single Judge in W.P.No.1547 of 1985 is the crucial aspect in deciding the issue whether the respondents-workmen are entitled for any back wages or not. As already this Court observed that the words "in the light of a decision of this Court" would mean and referable to a decision

rendered by another Judge on the same point in issue and it cannot be read to refer to any other decision which is not connected with the case. If that is taken into consideration, the observation of the learned single Judge in W.P.no.1547 of 1985 is traceable to the order of the another learned single Judge in W.P.No.4632 of 1985. It can be said that the workmen are not entitled for any back wages in view of the categorical observation made by the learned single Judge in W.P.No.4632 of 1985. Since both the appeals are dismissed confirming the orders of the learned single Judge, it is very clear that the workmen are not entitled for the back wages. Therefore, the question of filing an application under Section 36 C (2) of the Industrial Disputes Act does not arise. Without considering the judgments in the writ petitions, the Tribunal passed orders in the said Miscellaneous Petitions directing the writ petitioner herein to pay the back wages. The reasoning given by the Tribunal reads as follows:

> "In this case both the counsels contended that S.L.P. is filed before the Honourable Supreme Court of India, but it was not admitted by the said Court. The W.A.No.1658/88 presided by Division Bench held that the retrenchment of august, 1979 concerning K.B.Ramulu who was one of the workman in I.D.No.9/84 as illegal and confirmed the award of this Tribunal in I.D.No.73/82. This Division Bench disposed of the W.A.No.1658/88 in terms of judgment dt.17-9-91 thus confirmed the Award of this Tribunal in I.D.9/84. Thus the petitioner are themselves proved their case, while giving their oral evidence, as well as documentary evidence and found that the claim amounts are correct and they have to be given with interest since the petitioners are suffering from long time i.e. from the last 20 years."

In W.A.No.612 of 1989, though it was observed that the Tribunal was quite justified in holding that the retrenchment was illegal and unjustified, but, at the same time, on the ground that the Corporation was no longer in existence, the appeal was dismissed. Therefore, the award in I.D.No.73 of 1982 has become final. Since the W.P.No.1547 of 1985 was disposed of in the light of the decision of this Court, which, in my considered opinion, is traceable and referable only to the order in

W.P.No.4632 of 1985, dated 26-04-1988, which denied the back wages.

Learned counsel appearing for the petitioners also relied upon a decision reported in **A.P.S.R.T.C. v. K.BAJJANNA** , wherein it was held:

> "When a similarly placed workman had been given the relief of reinstatement with back wages by the appellant-corporation, there was no reason why the respondent placed in similar circumstances should not be granted similar relief."

But, in this case, the issue of granting back wages has been taken and decided by this Court. Therefore, the question of granting back wages does not arise and hence, the above decision has no application to the facts of this case.

Therefore, the awarding of back wages under Section 32 C (2) of the Industrial disputes Act is not in accordance with the directions of this Court, and therefore, the respondents-workmen are not entitled for the back wages. Hence, the orders in the said Miscellaneous Petitions, dated 01-04-2002 passed by the Tribunal are set aside. Since the Tribunal exceeded its jurisdiction in awarding back wages, the same is denied by this Court.

Accordingly, the writ petitions are allowed. No costs.

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JUSTICE K.C.BHANU

Date: -08-2005.

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